REMARKS

Claims 1-35 are pending. Claims 1-35 stand rejected. Claims 1, 2, 8-9, 20 and 21 have been amended. Claim 16 has been cancelled without prejudice. Applicant reserves the right to pursue the original claim in this application. In view of the amendments to the claims and the remarks below, Applicant respectfully requests the rejections be withdrawn and the claims allowed.

Claims 8-9 stand rejected under 35 USC §112, second paragraph, as being indefinite. The office action states that there is insufficient antecedent basis for the limitations in the claims. As amended, Claims 8 and 9 now depend from Claim 7, and the limitation "said controlling entity" refers to the controlling entity recited in Claim 7. Applicant believes that this amendment should provide sufficient antecedent basis for claims 8 and 9.

Claims 21-35 stand rejected under 35 USC §112, second paragraph, as being indefinite. because the preamble of claim 21 fails to recite how a "method stores data on a computer readable medium." As amended, claim 21 now reads "A method for administrating a collaborative drayage community using a computer for processing a computer readable medium having executable instructions, said method comprising...." It should now be clear that what is claimed is a computer for executing a computer program stored on a computer-readable medium. This rejection is respectfully traversed.

Claims 21 – 35 stand rejected under 35 USC §101 because the claimed invention is directed to non-statutory subject matter. In particular, the office action states that Claims 21 – 35 do not recite the statutory class to which they are tied. As noted above, Claim 21 has been amended to include "a computer for processing" in the preamble and a computer for the "storing" and the "comparing" steps in the body of the claim. Accordingly, claim 21 now affirmatively recites the apparatus for accomplishing the method steps. Claims 22-35 depend from claim 21 and should be allowed for the same reasons.

Claims 1, 3-7, 10-15, 17, 19-23, 25-30, and 32-35 stand rejected under 35 USC §103(a) as being unpatentable over Nakagawa et al., U.S. Patent No. 6,374,178 B2 ("Nakagawa"), in view of Applicant's prior art admission. The rejection is respectfully traversed.

The present invention provides for a computerized collaborative drayage system and method whereby drayage resource data are matched to drayage queries in order to maximize the number of reciprocal loads to avoid bobtailing and thus increase the efficiency and profitability of drayage operations. A further advantage of the invention is that the inefficiencies due to returning empty containers to high traffic-density terminals (e.g. piers and railroad yards) are greatly reduced. The storage of so many empty containers creates unnecessary congestion. Finally, per diem charges for equipment are another common inefficiency. Once a trailer is empty, there is often the issue that a large number of containers may be declared empty at the same time. A single drayage operator may not have sufficient resources to retrieve and redeliver containers or trailers to the equipment provider on a timely basis. As a result, unnecessary per diem charges end up costing the operator.

Claims 1 and 20 recite "a system for administering a collaborative drayage community." The combination of Nakagawa with drayage shipping would not have been obvious to one of ordinary skill in the art.

By contrast, Nakagawa is directed towards a centralized transportation arrangement system for shipping, which provides a means to create an optimal route between various distribution centers and transportation bases. Nakagawa emphasizes a single assignable optimal route between points. The application of Nakagawa to drayage shipping would not teach or suggest the limitations and features of claims 1 and 20 as amended.

Nakagawa does not disclose "retrieval means for retrieving, based on a match...a list of at least one shipping resource." nor does it disclose "delivery means for delivering said list..." Instead, the system of Nakagawa collects the data from the shippers, and then internally sorts the data based on departure and arrival points to create optimal path assignments. The Nakagawa system does not disclose the ability to search for a particular resource upon request of a participant

in the shipping community, while the system of claim 1 allows individual participants in the drayage community to identify the drayage resources that specifically match their need at the point in time chosen by the participant.

Further, the system of Nakagawa forces the participant of the community to accept the "optimal" route set by the algorithm. In practice, some shippers, due to prior bad experiences, would not allow certain carriers to enter their yards to pick up a load; in a similar manner, some carriers, due to prior bad experiences, would not accept loads from a given shipper. The Nakagawa system does not support optimization including this functionality. Claims 1 and 20 in the present invention allow the participants to determine which resources meet their particular needs.

Since the Nakagawa route evaluation criteria specified in equation 3 (See Col. 9 lines 36-37) does not include offered shipper price all community participants use the same price. The present invention (see Claims 1 and 20), by contrast, allows the matching of resource data, which includes, but is not limited to shipper rates, estimated time of arrival, and per diem charges. Community participants are also free to decide whether to accept a particular load or not depending on their own particular criteria. For example, certain participants may choose not to haul tires or hazardous material, or a participant may choose at some point in time not to haul any further loads that day. Claims 1 and 20 allow the participant to make that decision, whereas Nakagawa requires the participant to complete the optimized route.

Moreover, it would not be obvious to interpret Nakagawa to include individual carrier pricing. Carrier participants are highly competitive and most of them would not submit a competitively low price for transporting a load without knowing the details of the load. Further, many of them would not participate at all in the Nakagawa system because of the large amount of effort necessary to evaluate each of the potential shipments to be able to submit competitively low prices. Hence, the Nakagawa system would have far fewer participating carriers (and therefore optimization opportunities) resulting in higher prices than in the present invention; and, therefore the Nakagawa system would have far lower optimization efficiency than the present invention.

The admission of prior art does not overcome the above-discussed deficiencies of Nakagawa. Applying the system of Nakagawa to drayage shipping would still not allow community participants to identify and select drayage resources. Also, Nakagawa applied to drayage shipping would assume that all shippers have agreed to charge the same prices, unlike the system of claims 1 and 20. Thus, claims 1 and 20 are allowable over the combination of Nakagawa in view of Applicant's prior art admission.

Claims 3-7, 10-15, 17, and 19 depend from claim 1. As explained above, Nakagawa fails to teach all of the limitations of claim 1. Thus, for at least the same reasons, Nakagawa fails to teach all of the limitations and elements of claims 3-7, 10-15, 17, and 19. Thus, claims 3-7, 10-17 and 19 are allowable for at least the same reasons as claim 1 is. Accordingly, Applicant respectfully requests that the rejection be withdrawn and that these claims be allowed.

As amended, claim 21 recites a computer for processing a computer readable medium having instructions for administering a collaborative drayage community. The combination of Nakagawa with known drayage shipping technology would not have met the limitations of amended claim 21. In particular, Nakagawa does not disclose the elements of "gathering query data", or "comparing said query data against said drayage resource data." Nakagawa collects data from the participants of the shipping community regarding resources, but does not disclose collecting data related to queries. Likewise, Nakagawa does not provide a facility for participants to directly query the stored data. Instead, Nakagawa gathers data and causes data to be stored, but once the system collects the information from the transportation companies and factors in the restraint conditions, it then creates an optimized route without further intervention or input from the community participants. Thus, as amended, claim 21 should be allowable over the combination of Nakagawa in view of Applicant's prior art limitation.

Claims 2, 8-9, and 31 stand rejected under 35 USC 103(a) as being unpatentable over Nakagawa in view of Applicant's prior art admission in further view of Carson, US Patent No. 6,577,921 B1 ("Carson"). Claim 2 depends from claim 1, and as stated above, is patentable over Nakagawa in view of Applicant's prior art admission for the reasons previously stated. In the Office

Action, Carson is relied upon as suggesting the tracking of containers. However, the addition of Carson in no way remedies the previously noted deficiencies of Nakagawa in view of Applicant's prior art admission. Specifically, Carson does not teach "retrieval means for retrieving, based on a match...a list of at least one shipping resource." nor does it disclose "delivery means for delivering said list..." as mentioned above. Carson discloses a tracking system for shipping containers by receiving data from a GPS receiver, but does not disclose retrieving a list of shipping resources or delivering a list of shipping resources. Thus, claim 2 and dependent claims 8-9 as amended are allowable over the combination of Nakagawa in view of Applicant's prior art admission in further view of Carson.

Claim 31 depends from claim 21, and is patentable over Nakagawa, Applicant's prior art admission, and Carson for the reasons previously stated. Specifically, Carson is relied upon in the Office Action as suggesting the tracking of containers. However, the addition of Carson in no way remedies the inadequacies of Nakagawa in view of Applicant's prior art admission. Carson does not teach "comparing said query data against said drayage resource data." as mentioned above. Thus, claim 31 is allowable over the combination of Nakagawa in view of Applicant's prior art admission in further view of Carson.

Claims 18 and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nakagawa in view of Applicant's prior art admission in further view of the article, "Conflict, Power and Evolution in the Intermodal Transportation Industry's Channel of Distribution," Transportation Journal, Spring 2000, pp. 5-17 ("Taylor").

In the Office Action, Taylor is relied upon as teaching the use of an interchange agreement between two parties. However, the addition of Taylor in no way remedies the inadequacies of Nakagawa alone or in combination with Applicant's prior art admission. Specifically, Taylor does not teach or suggest "retrieval means for retrieving, based on a match...a list of at least one shipping resource." nor does it disclose "delivery means for delivering said list..." Thus, claim 2 is allowable over the combination of Nakagawa in view of Applicant's prior art admission in further view of Taylor.

Claim 24 depends from claim 21, and thus, as stated above, is allowable over the combination of Nakagawa in view of Applicant's prior art admission. In the Office Action, Taylor is relied upon as suggesting executing an interchange agreement between two parties. However, the addition of Taylor in no way remedies the inadequacies of Nakagawa in view of Applicant's prior art admission. For example, Taylor does not teach or suggest "comparing said query data against said drayage resource data," nor does it refer to a system to manage a collaborative drayage environment. Thus, claim 24 is allowable over the combination of Nakagawa in view of Applicant's prior art admission in further view of Taylor.

In view of the above amendment, applicant believes the pending application is in condition for allowance and requests reconsideration of the outstanding rejections.

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